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MEMORANDUM

JANUARY 10, 1985

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: STEPHEN COYLE, DIRECTOR

SUBJECT: WATERFRONT PROJECT, MASS. R-77, ROWES/FOSTERS WHARF DEVELOPMENT

On May 25, 1983, the Authority designated Rowes Wharf Company as redeveloper of Rowes/Fosters wharf. The Authority subsequently authorized the execution of a Lease Commencement Agreement and approved a Development Impact Agreement for the project.

This is a mixed-use development including office, restaurants, hotels, residential, underground parking, and marine terminal operation. Since the tentative designation, the project has gone through extensive design review and the developer has been very cooperative in improving the design elements in response to all concerns, including significant improvements to the domed rotunda area, public access and the central arch that has been enlarged to provide a more prominent view of the sea from Broad Street and Atlantic Avenue. The marine terminal space has been substantially increased from 265 feet to a minimum of approximately 650 feet. All of the disposition documents will require that the public access, which encompasses approximately 2/3 of the overall site, including the boating terminals and marine access, will be developed and maintained by the developer and that provisions have been made to ensure that the excursion boats and other water-related activities will continue during the construction of the site.

The property will be fully taxable, will produce linkage payments of over \$1,700,000 for the creation of low and moderate income housing in the city's neighborhoods; and the mixed-use development will produce over 1,300 permanent jobs for an area of the city that has been vacant land and dilapidated dock areas for numerous years.

The Rowes Wharf project has now achieved a significant step with the receipt of its so-called "Tidelands License" from the Department of Environmental Quality Engineering, reflecting months of cooperation among the Authority staff, DEQE and the developer, largely focused upon the new commercial maritime terminal to become a part of this project.

Since November 15, 1984, the redeveloper has been paying rent to the Authority pursuant to the Lease Commencement Agreement with the Authority dated May 25, 1984. Substantial time and effort has been dedicated to obtaining the Chapter 91 license and the developer now wishes to recoup some of that time by early entry for start of demolition and construction.

The following votes relate to the license for early entry into the site, a license for construction storage on public land, a Memorandum of Understanding between the developers, the Authority and the State concerning the implementation of the DEQE permit, and the authorization to issue a warrant in accordance with the provisions of Chapter 79, Section 3, if the present boat operators refuse to permit the commencement of development activities.

VOTED: That the Authority grant to Rowes Wharf Limited Partnership a license for early entry to the Rowes Wharf site, as more particularly described in the Lease Commencement Agreement between the Authority and said Rowes Wharf Limited Partnership, dated May 25, 1984, for the purpose of commencement of construction including, without limitation, the demolition of existing wharves, the realignment of seawall and replacement thereof with steel sheet bulkhead, excavation, and construction of a slurry wall; and that the Director be and hereby is authorized to execute and deliver on behalf of the Authority a License Agreement for such entry and construction with Rowes Wharf Limited Partnership on such terms and conditions as the Director shall deem necessary or desirable; and

FURTHER

VOTED: That the Authority grant to Rowes Wharf Limited Partnership a license for construction storage on public land as more particularly described in the attached proposed License Agreement and shown on Exhibit A attached thereto, at a monthly rental of \$1,000; said license to be substantially in the form of the proposed License Agreement attached; and

FURTHER

VOTED: That the Authority enter into a Memorandum of Understanding with Rowes Wharf Limited Partnership and the Department of Environmental Quality Engineering of the Executive Office of Environmental Affairs ("DEQE") to implement certain of the conditions imposed by DEQE in its Determination to Issue a Waterways License Pursuant to Mass. G. L. Chapter 91 for the Rowes Wharf Project, including, without limitation, the establishment of the Rowes Wharf Operations Board to direct and control the management of certain of the maritime facilities in the Rowes Wharf Project, and that the Director be and hereby is authorized to execute and deliver on behalf of the Authority said Memorandum of Understanding substantially in the form presented to this meeting with such changes or amendments as the Director shall, in his sole judgment, consider necessary or desirable; and

FURTHER

VOTED: That in connection with the granting of a license to Rowes Wharf Limited Partnership for early entry to the Rowes Wharf site, the Authority shall forthwith take all steps necessary to cause the Rowes Wharf site to be free and clear of all tenants and occupants, including, without limitation, the service of notice, the commencement of civil actions and the service of process; and that the Executive Director be and hereby is authorized to issue on behalf of the Authority, and deliver to the Suffolk County sheriff or his deputy for service, warrants pursuant to Mass. G.L. C. 79, Section 3 to each of the tenants or occupants of the Rowes Wharf site, including, without limitation: Mass Bay Lines, Inc., if they refuse to allow the commencement of development activities.

MEMORANDUM OF UNDERSTANDING

Whereas the Rowes Wharf Limited Partnership ("The Partnership") has applied to the Department of Environmental Quality Engineering ("DEQE") for a license under Chapter 91 for certain maritime facilities and a mixed use development on the site of Rowes and Foster's Wharfs; and

Whereas the Boston Redevelopment Authority ("BRA") currently owns the site of the proposed development at Rowes and Foster's Wharfs ("Rowes Wharf") and has entered into a Lease Commencement Agreement with the Partnership; and

Whereas in the course of Chapter 91 Licensing proceedings, the Partnership, DEQE, and the BRA have recognized the potential need to expand the commercial maritime terminal; and

Whereas the Partnership has filed a Notification of Project Change ("NPC") with the Secretary of Environmental Affairs on November 9, 1984, which is accompanied by a site plan showing a total of approximately 650 linear feet of floating dock suitable for a commercial maritime use; and

Whereas the Secretary of Environmental Affairs concluded on November 29, 1984 that the changes described in the NPC will not significantly increase the environmental consequences of the project; that no further MEPA review is required; and that the proposed three member operations board can responsively address the management and operation of the commercial maritime terminal, public transient boat slips and the dinghy dock; and

Whereas the BRA and DEQE have recognized the need to provide a logistical, maintenance, service and repair base for work requiring specialized facilities, best situated at a separate and properly equipped location; and

Whereas the Partnership, the BRA and DEQE have agreed that the maritime facility at Rows Wharf should be managed and operated under the supervision of a fulltime, on site maritime facilities manager, subject to the approval of a tripartite operating Board;

Now therefore the parties hereto, for consideration mutually given and received, the receipt and sufficiency of which are hereby acknowledged, covenant and agree as follows:

DEFINITIONS

As used herein, the following terms shall have the same meanings they are given in the "Determination and Decision to Approve Application for License Pursuant to Massachusetts General Laws, Chapter 91--Rows Wharf and Fosters Wharf" ("DEQE Determination"), which definitions are incorporated herein by reference, unless the context otherwise requires.

1. Rows Wharf Operations Board.
 - a. The Partnership, DEQE and BRA hereby establish a three member Rows Wharf Operations Board to oversee the operation and management of the commercial maritime terminal, public transient boat slips and the dinghy dock.

- b. The Members and voting procedure of the Operations Board shall be as set forth in Condition 3 of the DEQE Determination.
- c. The Operations Board shall meet within 30 days of the date hereof and thereafter according to the schedule it shall establish.
- d. The Operations Board shall approve the Partnership's selection of a maritime facilities manager ("the Manager") and the duties assigned to such post. The Partnership shall employ and remunerate the Manager.
- e. The Partnership, and when feasible, the Manager shall present an operations plan ("the Plan") for the commercial maritime terminal, public transient boat slips and the dinghy dock to the Operations Board for approval. The Plan shall be consistent with the DEQE Determination and this Agreement and shall address the following subjects:
 - 1. Ticketing Operations and Passenger Management, security and crowd control,
 - 2. Hours of operations,
 - 3. Docking and service fees,
 - 4. Access to the commercial maritime terminal by marine operators, and assignment of dock space to operators,

5. Support services for marine operators,
 6. Docking locations and times and schedule for use,
 7. Layovers, schedules, length etc.,
 8. The provisions of water, electrical, toilet and trash facilities,
 9. Maintenance of the commercial maritime terminal,
 10. Provisions for access by the handicapped.
 11. Rules and Regulations for the general operation of the ferry terminal, public transient boat slip and dinghy dock, including without limitation, emergency procedures, insurance limits, record-keeping, etc.
- f. The Rowes Wharf Operations Board shall establish reasonable financial accounting and reporting procedures for the Partnership's operation of the commercial maritime terminal, the public transient boat slips and dinghy dock.
- g. The Operations Board may reserve special occasion use of the recreational mooring slips at the eastern edge of the Central Wharf. The Partnership shall comply with such requests if made more than 7 days prior to the requested date of readiness.

- h. The Rowes Wharf Operations Board will establish an Advisory Committee to consult and provide information on the operation and management of the commercial maritime terminal. In addition to representatives of the three parties hereto, the following shall be invited to join the Advisory Committee:

CZM
Massport
EDIC
MDC
Boston Harbormaster
EOTC
Ferry and excursion boat operators
Greater Boston Chamber of Commerce
South Shore Chamber of Commerce
Boston Harbor Associates
Owners of adjacent property

and such other parties as the Operations Board may deem helpful.

2. Interim service facilities at the Charlestown Navy Yard.

- a. The BRA agrees to make available on an interim basis wharf and landside facilities at the Charlestown Navy Yard to provide support operations, storage, incremental layover, fueling, and repair and maintenance services to operators of ferry, excursion, commuter and water taxi boats currently using the docking facilities at Rowes Wharf, and for such operators as may use the new commercial maritime terminal to be constructed at Rowes Wharf.

- b. The parties hereto agree that they and their representatives on the three member Rowes Wharf Operations Board shall work together and with other interested private and public parties to find permanent service and maintenance facilities in the Boston Inner Harbor for the marine operators.
- 3. Additional docking facilities at 400 Atlantic Avenue.
 - a. Within seven years, but not prior to two years from the commencement of construction by the Partnership of the new maritime facilities and mixed use project at Rowes Wharf, the three member Rowes Wharf Operations Board may request the Partnership to construct, at its own expense and risk, floating docking of approximately 130 linear feet along the waterfront at 400 Atlantic Avenue.
 - b. The three member Rowes Wharf Operations Board may make such request of the Partnership upon their determination that the demand for ferry and excursion boat terminal space in the harbor warrants such an expansion.
 - c. The Partnership will cooperate with those having the legal right to seek all construction and environmental permits necessary for the addition

of the floating dock, and the BRA and DEQE hereby agree to cooperate in the application for and processing of all necessary permits and licenses.

d. In the event the Operations Board determines after all parties have made good faith efforts in pursuit thereof, that any necessary legal or property right or governmental approval, permit or license is denied or unavailable, the Partnership's obligation hereunder is thereby terminated without need for an appeal.

e. After construction and installation of the floating dock at 400 Atlantic Ave., it shall be managed and operated by the Rowes Wharf Operations Board in coordination with and under the same terms as the Rowes Wharf commercial maritime terminal, unless DEQE approves an alternative arrangement.

4. General Services Administration Building Walkway.

a. The Partnership agrees to reimburse the BRA for the design and construction costs incurred by the BRA to create a continuation of a waterfront pedestrian walkway from the southerly property line of 400 Atlantic Avenue to Northern Avenue behind the GSA Building, provided, however, that such reimbursement shall not exceed \$15,000.

b. The DEQE agrees to assist and cooperate in the design of such a walkway and in the application and permitting process for the permits necessary for the construction of such a walkway.

5. Water Shuttle Service.

The Partnership will operate or cause the operation of water shuttle service from Rowes Wharf to Logan Airport for a period of at least two years after the project is in full operation, provided, however, that the Rowes Wharf Operations Board determines that an adequate terminal on the airport side of the harbor and adequate ground transportation between said terminal and the airport are then available without expense to the Partnership.

This Agreement shall bind the successors and assigns of the parties hereto, but may be amended by unanimous consent. This Agreement expresses the full understanding of the parties and all prior drafts and negotiations are entirely superseded and rendered nugatory hereby.

Rowes Wharf Limited Partnership

By: _____
Edwin N. Sidman, General Partner

Boston Redevelopment Authority

By: _____
Stephen Coyle, Director

Massachusetts Department of
Environmental Quality Engineering

By: _____
S. Russell Sylva, Commissioner

Dated: December , 1984

LICENSE AGREEMENT

LICENSE made this day of January, 1985 by and between the Boston Redevelopment Authority, a public body, politic and corporate, created and existing pursuant to Chapter 121B of the Massachusetts General Laws (Ter. Ed.), as amended, (the "Authority") and Rows Wharf Limited Partnership (the "Licensee").

WHEREAS, the Licensee has been tentatively designated as the redeveloper of the Authority's development parcel known as Rows and Fosters Wharves in the Downtown Waterfront Faneuil Hall Urban Renewal Project Area, being the premises shown on a plan entitled "Boston Redevelopment Authority, Waterfront Project, Rows & Fosters Wharves Development Parcel A-1/D-6," Scale : 1" = 40' dated March, 1982 (the "Premises"); and

WHEREAS, the Licensee and the Authority have entered into a Lease Commencement Agreement dated May 25, 1983; and

WHEREAS, the Perini Corporation, the Construction Contractor for the Premises, is seeking an off site location for its construction trailers, which trailers shall be used as Perini's site office; and

WHEREAS, the Commonwealth of Massachusetts, acting by and through the Department of Public Works (the "Commonwealth") is the owner of a portion of the property shown on Exhibit A attached hereto and made a part hereof (the "Property") and the Authority is the owner of the remainder, also as shown on Exhibit A; and

WHEREAS, the Commonwealth has given the Authority a Permit to occupy the Property with the knowledge that the ultimate user will be the Perini Corporation.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained, the Authority hereby authorizes and permits the Licensee, its agents, employees, contractors and subcontractors, to enter upon the Property and to occupy the same as a site office for construction trailers and for such other purposes as are generally associated with such site office use.

This License is subject to the following terms and conditions:

1. The rights conferred by this License shall commence on the date hereof and shall continue for so long as the Licensee shall need the site for such purposes as set forth herein, or such earlier termination by the mutual agreement of the parties hereto.

2. In the conduct of the activities authorized by this License, the Licensee shall adhere to provisions of all applicable codes, regulations and ordinances of the City of Boston and the Commonwealth of Massachusetts.

3. The Authority hereby agrees that it shall notify all persons having a right to occupy the Premises, or portions thereof, that this License has been granted and of the terms of Paragraphs 3, 4 and 5 hereof, and that it shall take all legal steps necessary to cause any such persons to cooperate with Licensee in making areas designated by Licensee from time to time available for use and occupancy by Licensee. Exhibit A attached hereto and made a part hereof is a map showing the site hereby licensed and the Licensee's proposed trailer location and fencing plan for such site.

4. The Licensee shall construct a fence around the Property in substantially the same location as shown on Exhibit A, taking all necessary precautions to prevent access to the Property by the general public, but shall nevertheless provide throughout the term of this License to the Commonwealth unobstructed access, at all times, to and from the concrete structure located on said Property.

5. The Licensee shall use its best efforts to prevent any damage to the trees on the property, and if some damage shall

occur or any tree shall be lost because of any action taken on the part of Licensee, the Licensee shall replace such tree prior to the termination of this License, weather permitting. If such termination shall occur during the winter months when replacement would be inappropriate, Licensee shall replace such tree when the weather permits.

6. The Licensee agrees to pay, indemnify and save harmless the Authority from all suits, actions, claims, demands, damages or losses, expenses and/or costs of every kind and description to which the Authority may be subjected or put by reason of injury (including death) to persons or property resulting from, in connection with, or growing out of any act of commission or omission of the Licensee, its agents, servants, employees, visitors, guests or any person or corporation dealing with the Licensee in any way in the occupancy and the use of the Property. The Authority shall give notice of any such suits, actions, claims, demands, damages, losses, expenses, or costs to the Licensee forthwith, and the Authority shall not object to the intervention of the Licensee in any suit arising out of such claims, demands, losses, expenses or costs.

7. The Licensee shall carry or require that there be carried Workers' Compensation Insurance for all of its employees and those of its contractors and subcontractors engaged in work on the Property, in accordance with applicable Workers' Compensation laws.

The Licensee shall carry or require that there be carried General Public Liability Insurance with bodily injury limits of not less than \$1,000,000 for injury to or death of one person, and with such limits of not less than \$3,000,000 for injury to or death of more than one person, due to accidents which may occur or result from activities under this License. Such insurance shall cover the use of all equipment, hoists and motor vehicles on the site or hauling materials or debris from the site. The Licensee shall further carry Property Damage Insurance with limits of liability of not less than \$100,000 for each accident or accidents which might arise from activities under this License. The Authority shall be named as an additional insured on all insurance required hereunder. The Licensee agrees to furnish to the Authority proof of such insurance prior to entering the Property.

8. The Licensee shall pay the Authority on the first day of each month One Thousand (\$1,000.00) Dollars throughout the term hereof, which amount shall be prorated in the first or last month of the term, if such occupancy shall be less than thirty (30) days.

9. The Authority shall not be obligated to reimburse the Licensee, its agents, employees, contractors and/or subcontractors for any funds expended on the fencing, resurfacing, repaving, replanting or repairing of the Property.

10. The Licensee shall not permit, commit nor suffer waste or impairment of or to the Property.

11. The Licensee shall, if the work herein permitted requires occupancy of a public street or alley, obtain the required permit from the City of Boston before proceeding with such work.

12. All rubbish and debris caused by the activities permitted herein shall be removed by the Licensee at its expense.

IN WITNESS WHEREOF on the day of January, 1985 at Boston, Massachusetts, the parties hereto have caused this License in three counterparts to be signed, sealed and delivered by their duly authorized officers, respectively.

Signed, sealed and
delivered in the presence of:

BOSTON REDEVELOPMENT AUTHORITY

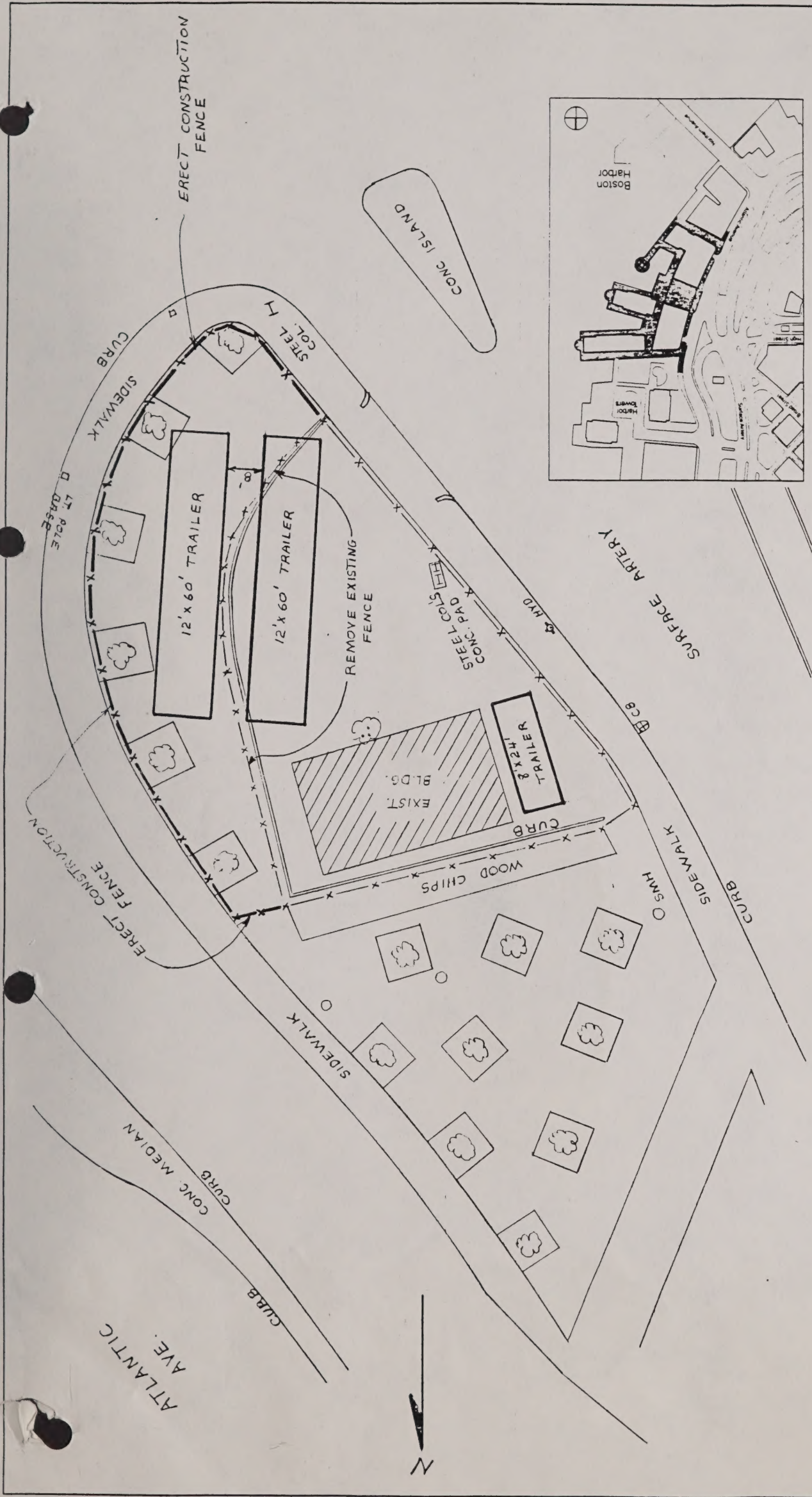
By: _____
Stephen Coyle, Director

ROWES WHARF LIMITED PARTNERSHIP

BY: _____
Edwin N. Sidman,
General Partner

Approved as to form:

Exhibit A



REV. NO.		DESCRIPTION		DESIGN:		SCALE: 1" = 20'
DATE		DRAWN: TK		DRAWN: TK		DATE: 10-3-84
Perini		CONSTRUCTION OFFICE LAYOUT		CHKD:		DWG.
				APRVD: [Signature]		822-10

Contract let 10-3-84 (some details added)